

CITY PLANNING COMMISSION
Austin, Texas

Regular Meeting -- December 13, 1960

The meeting of the Commission was called to order at 7:30 p.m. in the Council Room, Municipal Building.

Present

D. B. Barrow, Chairman
Doyle M. Baldrige
Howard E. Brunson*
A. C. Bryant
Pericles Chriss
S. P. Kinser
W. Sale Lewis
*Left the meeting at 10:00 p.m.

Absent

Fred C. Barkley
Emil Spillmann

Also Present

Hoyle M. Osborne, Director of Planning
E. N. Stevens, Chief, Plan Administration
Dudley Fowler, Assistant City Attorney

MINUTES

Minutes of the meeting of November 15, 1960, were approved as submitted.

ZONING

The following zoning change requests were considered by the Zoning Committee at a meeting December 6, 1960:

C14-60-146 A. H. Ritter: C to C-2
Manor Rd. and Interregional Hwy.

DIRECTOR'S REPORT: A liquor store has been operating at this location for a number of years as a non-conforming use. The purpose of the request is to have the use conform to the Ordinance. This conforms to the policy of the Commission since it is in a well developed commercial area.

Mr. Leland L. Antes, Jr. (Public Relations Representative) appeared at the hearing and stated that their purpose is to conform with the City zoning and to be sure that they can continue selling liquor here from time to time. He said a liquor store is quieter than a beer joint since the Liquor Board does not allow loitering around the business.

The Commission noted the location of this property which is in the midst of a well developed commercial area and which backs up to a cemetery. It was concluded that the request conforms to the policy of the Commission and should be granted. It was therefore unanimously

VOTED: To recommend that the request of A. H. Ritter for a change of zoning from "C" Commercial to "C-2" Commercial for property located at the northeast corner of Manor Road and Interregional Highway be GRANTED.

C14-60-147 Jose C. Garcia: A to IR
Canterbury St. and Pleasant Valley Rd.

DIRECTOR'S REPORT: This area has been developed residentially with the exception of East 1st Street which has been commercial for several years, and this would be spot zoning in the residential area. Also, the River Road planned for this area might affect this property since the exact location has not been determined. It is recommended that the request be denied.

Mr. John B. Selman (attorney) represented the applicant who was also present and submitted the following information in support of this request:

1. This property is about one block from East 1st Street which is commercial. It is a particular area that has been changed in character from residential to commercial by the City in building the dam and bridge across the street and the power plant several blocks down the street. The tract to the east is zoned "A" Residence but has the appearance of commercial. This is a transitional area which has grown and developed practically overnight because of City improvements.
2. Because of the way the new bridge is situated the traffic coming off the bridge will throw lights directly into this house. We think it would be fair to change this to Local Retail because within a short period of time, with the size of the streets as scheduled and the River Road going through here, and with Pleasant Valley Road designated as a large thoroughfare, the area will be fully commercial.
3. This development by the City would make one feel that the value of his property has increased. What Mr. Garcia wants to do is to sell his home and buy in a more favorable residential area. He does not have any prospects for development at this time but plans to put in the property on the market.

The Commission noted that this area has been changed because of the City development and felt that further study should be given the entire area before a change of zoning is granted. Because of this situation and the fact that this would be spot zoning and the applicant has no plans for development, the Commission concluded that the request should be denied pending further study of the area. It was therefore

VOTED: To recommend that the request of Jose C. Garcia for a change in the zoning plan from "A" Residence to "IR" Local Retail for property located at the northwest corner of Canterbury Street and Pleasant Valley Road be DENIED.

AYE: Messrs. Barrow, Baldrige, Brunson, Bryant, Chriss and Lewis

NAY: None

ABSENT: Messrs. Barkley and Spillmann

PRESENT BUT NOT VOTING: Mr. Kinser

C14-60-148 Keystone Realty Co., Inc.: A to B
1212-1300 (1208) Springdale Road

DIRECTOR'S REPORT: This application is for the purpose of erecting a four-unit apartment house on this property. Under the proposed zoning eight units would be permitted. The property has been subdivided and the necessary additional right-of-way for Springdale Road was given in the subdivision. There is an "LR" Local Retail zone to the south on 12th Street but this lot is in a residential area and across from an elementary school. The Department recommends that when the area is developed, a larger area than this tract be recommended for "B" Residence development in the future but this one request would be termed as a spot zone.

Mr. Phillip Crawford represented the applicant and stated that, since this property fronts on Springdale Road which is a thoroughfare and because of the development in the area, this is the best development for the property. They do not feel that the proposed development would create a traffic hazard of any kind.

Reply to notice was received from Mr. Henry G. Saunders (owners of property to the south on 12th Street) favoring the request.

The Commission reviewed the development in the neighborhood and the location of this property and concluded that there is a need for apartment houses. It was therefore unanimously

VOTED: To recommend that the request of Keystone Realty Company, Inc., for a zoning plan change from "A" Residence to "B" Residence for property located at 1212-1300 (1208) Springdale Road be GRANTED.

DISQUALIFIED: Mr. Kinser

C14-60-149 Sammie Joseph: C to C-2
616-618 Lamar Blvd.

DIRECTOR'S REPORT: The Department feels that this request conforms to the policy of the Commission but thinks that off-street parking spaces should be provided since this section of Lamar Boulevard carries over 15,000 cars per day.

Mr. J. P. Darrouzet (attorney) appeared for the applicant and explained that this store was used at one time for a printing shop but has been vacant for about two years and Mr. Joseph wants to have a liquor store here. He said there is space in the back for about eight cars, with entrance from the alley.

Two replies to notice were received favoring the request and one reply was received from Mrs. R. Pickens Matthews (611 Baylor Street) opposing to a change of any kind that will permit this property to be used for the sale of liquor in any form for use on or off said property.

C14-60-149 Sammie Joseph--contd.

The Commission concluded that the request should be granted since the property is located in the midst of a well developed "C" Commercial area and the location is suitable for the sale of liquor. It was therefore unanimously

VOTED: To recommend that the request of Sammie Joseph for a change of zoning from "C" Commercial to "C-2" Commercial for property located at 616-618 Lamar Boulevard be GRANTED.

C14-60-150 Mrs. Claudia McPhaul: A to B
3414(3502) East 12th Street

DIRECTOR'S REPORT: The purpose of this request is for a beauty shop and there is a pending amendment to the Zoning Ordinance regarding beauty shops scheduled for hearing by the City Council December 22. This is in a fairly well developed residential area and, while the lot fronts on 12th Street which is proposed as a primary thoroughfare, we felt that it is definitely spot zoning and the request should be denied.

The applicant appeared and stated that she wished to operate a beauty shop in her home. The Committee explained that there is a proposed amendment to the Zoning Ordinance now being considered by the City Council which would affect the location of beauty shops. Three replies to notice were received favoring the request.

In view of the pending amendment to the Zoning Ordinance and the fact that this would be spot zoning in a residential area, the Commission concluded that the request should be denied. It was therefore unanimously

VOTED: To recommend that the request of Mrs. Claudia McPhaul for a zoning plan change from "A" Residence to "B" Residence for property located at 3414 (3502) East 12th Street be DENIED.

C14-60-151 Community Realty Company: C to C-1
1148 Airport Blvd.

DIRECTOR'S REPORT: This site is the location of a proposed grocery store where they want to sell beer. It is an interior site in the center of a shopping center where the sale of beer will be confined. The Department feels that this does conform to the policy of the Commission.

Mr. V. E. Ballard represented the applicant and stated that this request was made at the request of the Handy-Andy Supermarket who is leasing the building and will operate a store here. He said they propose to sell beer for off-premise consumption the same as the other two stores in Austin.

One reply to notice was received from Pool and Strong, Inc., approving the request.

C14-60-151 Community Realty Company--contd.

The Commission noted that this site is located in a well developed commercial shopping center and that the request conforms to the policy of the Commission. It was therefore unanimously

VOTED: To recommend that the request of Community Realty Company for a change in the zoning plan from "C" Commercial to "C-1" Commercial for property located at 1148 Airport Boulevard be GRANTED.

C14-60-152 M. H. Crockett, Jr.: Tract 1: C to C-1
5420A Airport Blvd.
Tract 2: C to C-2
5420B Airport Blvd.

DIRECTOR'S REPORT: This is an application for the sale of beer in connection with a restaurant and for the operation of a liquor package store. The frontage on Airport Boulevard is zoned and developed as residential and there are several establishments serving beer within a few blocks of this location. The Department feels that this would conform to the policy of the Commission because the area is being developed commercially on this side of Airport Boulevard.

Messrs. M. H. Crockett, Jr., M. H. Crockett, Sr., and C. H. Spurlock (tenant) appeared in support of this request and stated the following: The original large tract from which this location was a part has been developed at a cost of over a million dollars and it is proposed to have a \$75,000-building here, with a restaurant similar to the Night Hawk and a liquor store in the same building but separated from it. It is necessary that beer be sold in the cafe.

Mr. and Mrs. Simon Sims (5502 Middle Fiskville Road), Matthew M. Sims (5516 Middle Fiskville Road), and Lee Lewis Sims appeared in opposition for the following reasons: This is a quiet residential neighborhood on the west side of Airport Boulevard, with a church and homes. If beer is sold across the street there will be disturbances. There are many children and we do not want beer sold near us.

The Commission concluded that this is a well developed "C" Commercial area and that the request conforms to the policy of the Commission. It was therefore unanimously

VOTED: To recommend that the request of M. H. Crockett, Jr., for a change of zoning from "C" Commercial to "C-1" Commercial for Tract 1 (5420A Airport Boulevard) and from "C" Commercial to "C-2" Commercial for Tract 2 (5420B Airport Boulevard) be GRANTED.

C14-60-153 Fred C. Morse (Purchaser): A to LR, 1 to 2
2214 College Ave. (2214 S. Congress Ave.)

DIRECTOR'S REPORT: This lot has a frontage of 50 feet and is developed with a two-family dwelling. The property to the east is developed predominantly with single-family dwellings, and to the south is residential and a church school. The property along South Congress Avenue is zoned and used mostly as commercial and this lot adjoins a commercial zone on the south. It is recommended that consideration be given to other residences on College Avenue.

Mr. Roger Hanks (agent) represented the purchaser and explained the following: Having checked with everybody within the entire area, I found that they are all in complete agreement with the proposed change which would be an extension of the present commercial zone which includes an additional 25 feet to be included in the development by Mutual Savings. Deed restrictions have been removed from a part of this subdivision but this did not include this lot. It is proposed to add to the front of the present one-story brick duplex.

Two replies to notice and a petition signed by 13 owners within 300 feet of this property were filed approving the request.

Mr. Stevens reported to the Commission that the applicant has filed a request to the Board of Adjustment for a variance to permit the building to extend to the property line in front and will provide for parking in the rear. Mr. Hanks said they could get 18 parking spaces but it would be more economical to have only 15 spaces.

The Commission noted that this is rapidly becoming a commercial area and, while this lot is in a residential area, this would be a logical extension of the present commercial zoning. It was therefore unanimously

VOTED: To recommend that the request of Fred C. Morse for a zoning plan change from "A" Residence and First Height and Area to "LR" Local Retail and Second Height and Area for property located at 2214 College Avenue (2214 South Congress Avenue) be GRANTED.

C14-60-154 O. F. Henderson: A to C
4705 Harmon Ave.

DIRECTOR'S REPORT: This lot has a frontage of 62 feet on Harmon Avenue and a depth of 287 feet, being developed with a single-family residence. Harmon Avenue is a graveled street and is zoned residential and predominantly developed as such on the east side. The Department recommends against any extension of the adjoining "C" Commercial District on the north.

Mrs. Alma McCollum (tenant) explained that she proposed to operate a beauty shop in the home which she was purchasing at this location.

C14-60-154 O. F. Henderson--contd.

Mr. Richard R. Hooper (agent for the applicant) stated the following: I own adjoining property and favor this change. The property on three sides is already commercial and there is some vacant property adjoining this lot which adjoins commercial property fronting the Interregional Highway and owned by the same owner. This vacant property will be commercial. This lot will then be in the middle of a commercial area.

Replies to notice were received from two other nearby owners approving the request.

The Commission discussed the possibility of a "B" zone here which would be a buffer between the residential and commercial areas. It was concluded, however that this request is a logical extension of the present "C" Commercial zoning because of present warehouses in the area, and that "C" uses might create a better development than an inferior "B" use which would develop on the property. Therefore, it was unanimously

VOTED: To recommend that the request of O. F. Henderson for a change in the zoning plan from "A" Residence to "C" Commercial for property located at 4705 Harmon Avenue be GRANTED.

C14-60-155 U-TOTE'M, INC.: C & C-2 to C-1
2408-2412 Greenlawn Parkway

DIRECTOR'S REPORT: The residential lots abutting this property on the west are presently undeveloped and are rather shallow in depth. The Department feels that a buffer of some kind should be provided to protect these lots.

Mr. Robert J. Potts (attorney) appeared for the applicant and submitted the following: The present "C-1" and "C-2" zones were previously granted as a part of this shopping center and it is now desired to change the location of the grocery store. We are limited to placing the building 50 feet from the west property line for the purpose of providing an open and unused area, and this might be considered a buffer zone. I think a fence would be desirable from the standpoint of the U'TOTE'M as well as the property owners and I would consider that they would put the fence there if the Committee indicated their desire for this. The change in the zoning is caused by a change of plans in the development.

The staff advised the Commission that Mr. Potts had filed a letter stating that his client advises that the proposal that a fence be erected along the west property line of the subject property is entirely acceptable and, in fact, desirable from their viewpoint; and he was requested to advise the Commission that such a fence will be provided.

The Commission concluded that this request is justified because of the previous zoning and the change of development plans in this commercial area,

C14-60-155 U-TOTE'M, Inc.--contd.

with the understanding that the owner has agreed to erect a fence as a buffer zone between this property and the residential lots on the west. It was therefore unanimously

VOTED: To recommend that the request of U'TOTE'M, Inc., for a change of zoning from "C" Commercial and "C-2" Commercial to "C-1" Commercial for property located at 2408-2412 Greenlawn Parkway be GRANTED, with the understanding that the applicant has filed a letter in which he agreed to erect a fence as a buffer zone between this property and the residential lots on the west.

C14-60-156 Alice B. Holmes: O to LR
Leon and West 24th Sts.

DIRECTOR'S REPORT: This property is presently zoned "O" Office and the request is for "LR" Local Retail to permit a service station. The property at 24th and San Gabriel is zoned "C" Commercial and we feel that this is improper zoning and that this area should be developed with University housing in a "B" zone. We think this would be somewhat hazardous and the intensive use of the service station would increase the present traffic hazard and would encroach into a residential area.

Mr. Frank D. Kerbow (attorney) represented the applicant and presented statements which may be summarized as follows:

1. On the northeast corner at San Gabriel and 24th is the Kash-Karry store; across San Gabriel on the north side is the Humble Service Station; adjacent to that on Leon is what was once the McDonald apartments; across Leon you have fraternity houses; east of this property is the Texas Federation of Women's Club; across Leon Street is a vacant tract and on the corner of Longview is Dr. Kreisle's offices; and then there is an office building across Longview, a fraternity building and the tennis courts down to Lamar Boulevard. This is the only residence along 24th Street and it is out of place.
2. As far as the increase in traffic and the hazards that might be involved, Leon is a hosrt street extending only from 19th to 24th Street. In no manner could it be a thoroughfare just as 24th could go no further than the University. We don't see where the hazards could be increased on Leon Street.
3. This is now in the middle of town. In the last few years all the surrounding buildings have been built, leaving this property in this situation. We don't think this would be extending the zoning out of proportion when we have the present uses around us. We do need a change from "O" Office to "LR" Local Retail for the service station. (Mr. Stevens said a filling station could be established here under a Special Permit with control over the construction, especially since the grades of the streets are such as they are.)

C14-60-156 Alice B. Holmes--contd.

4. Commercial development is creeping in this area. We think it would be unfair to the applicant to have all these uses here and not be permitted to erect his service station. We all realize that fraternities are not quiet. There will be ample space for this station with proper approaches from both streets. There will be an attractive building and a considerable amount of money will be spent here. We fail to see that it would substantially change the character of this area or increase the traffic.

Five persons appeared in opposition and written objections were filed by five nearby owners. Reasons given were:

1. Leon is a very narrow street and West 24th Street is fairly narrow with one of the heaviest traffic counts of any thoroughfare in the City. It is almost impossible to cross 24th Street. This change would be an invitation for more and more traffic casualties.
2. The neighborhood is primarily residential in character and there is absolutely no need for further retail outlets between San Gabriel and Lamar Boulevard. It is a quiet residential section and a service station would disturb the residents and depreciate the home value of all the property.
3. A doctor's office is not objectionable because it opens late and closes early but a service station is open at all hours and is noisy and creates traffic. It would make this area less desirable as a home neighborhood.

Some members of the Commission felt that a service station here would not be the proper use for this beautiful large lot and not its highest and best use, and that it could have a more valuable use than a filling station. They also noted that 24th Street has a steep slope downward to Lamar Boulevard and there is very heavy traffic on the street which would make it hazardous to the general traffic flow and to the vehicles entering and leaving the station, and that the property could probably be better used for "O" Office development since there are homes near this property. They called attention to the fact that, while adjoining property on the east is zoned "C" Commercial it is not so used. Mr. Kinser stated that it has been the firm policy of the Commission to expand existing zones rather than to start a commercial zone at another location and he felt this would be a logical extension of the present commercial zoning. It was then

VOTED: To recommend that the request of Alice B. Holmes for a zoning plan change from "O" Office to "LR" Local Retail for property located at the southeast corner of Leon and West 24th Streets be DENIED.

AYE: Messrs. Baldrige, Brunson, Chriss and Lewis
NAY: Messrs. Bryant and Kinser
ABSENT: Messrs. Barkley and Spillmann
DISQUALIFIED: Mr. Barrow (relative of the owner)

C14-60-157 T. & N. O. Railroad: A to C
419-421 Koenig Lane

DIRECTOR'S REPORT: This property faces on Koenig Lane and the property on each side is zoned commercial. The Carnation Milk Company has a development on the east and the Southern Union Gas Company on the west. There is a residential area to the northwest and to the south. The Department objects to this location because any distraction to traffic at this location would be dangerous.

Mr. Donald J. Weigand (agent for Tribble Advertising Company) represented the applicant and presented statements which may be summarized as follows:

1. This is a strip of railroad right-of-way and according to all maps and records it is not zoned at all but is listed as "A" Residence. The property on both sides is "C" Commercial and Butter Krust Bakeries is across the street. On three sides of this location are people who do business with our company. None of them is opposed to this.
2. With regard to the traffic hazard, it is so stipulated in our lease with the Texas-New Orleans Railroad Company that these panels would be set back 50 feet from the intersection and in addition to that there would be a 16-foot clearance at the bottom of the sign so there could be no danger to moving traffic on Koenig Lane. There will be two 25-foot panels with a total combined length of 50 feet and they will not be lighted. It is at the request of adjoining owners of Butter Krust that we are placing these panels here.
3. Signals will probably be placed at this intersection in the near future because of additional traffic coming in from Highway 290.

The Commission reviewed the statements presented and Mr. Baldrige felt that since the sign location is off the highway and there is commercial on both sides, it would not detract from the view. Other members, however, were of the opinion that this use could not be properly integrated into the neighborhood and that the sign would detract from the traffic and could possibly cause an accident since there is no signal at this crossing. It was agreed that signs are something for people to read and they either pay attention to the sign or to driving, and that this practice of placing signs along the railroad tract could grow into long rows of signs. It was concluded by a majority that this would be a detriment to the public safety and welfare of the community. It was therefore

VOTED: To recommend that the request of the T. & N. O. Railroad for a change in the zoning plan from "A" Residence to "C" Commercial for property located at 419-421 Koenig Lane be DENIED.

- AYE: Messrs. Barrow, Brunson, Bryant, Chriss, Kinser and Lewis
- NAY: Mr. Baldrige
- ABSENT: Messrs. Barkley and Spillmann

C14-60-158 T. & N. O. Railroad: A to C
E. 53 $\frac{1}{2}$ Street and Clarkson Ave.

DIRECTOR'S REPORT: This is for a portion of the railroad right-of-way at the intersection of East 53 $\frac{1}{2}$ (Bruning Avenue), East 53rd, Clarkson Avenue, and Middle Fiskville Road, with Eilers Avenue and Airport Boulevard intersection being very near. The property on each side is zoned commercial but with the intersection of the several streets the Department feels this would create a hazard to traffic and recommends denial of the request.

Mr. Donald J. Weigand (agent for Tribble Advertising Company) appeared for the applicant and submitted information as follows: We are planning two 25-foot panels here, with a total length of 50 feet. They will be built on six steel beams, with a total height of 28 feet. The panels have been pinpointed on a diagram according to our lease and will be behind the grocery store on the east. There will be no hazard here.

Some members of the Commission felt that this would be a logical extension of the present "C" Commercial zone where there are already commercial buildings and other signs. Other members concluded that the request should not be granted because of the street pattern in this immediate area and the danger of distracting from the attention of automobile drivers. A motion to grant the request failed to carry and it was then

VOTED: To recommend that the request of the T. & N. O. Railroad for a change of zoning from "A" Residence to "C" Commercial for property located at East 53 $\frac{1}{2}$ Street and Clarkson Avenue be DENIED.

AYE: Messrs. Barrow, Brunson, Bryant, Chriss, Kinser and Lewis

NAY: Mr. Baldrige

ABSENT: Messrs. Barkley and Spillmann

C14-60-159 T. & N. O. Railroad: A to C
6901-6933 Airport Blvd.

DIRECTOR'S REPORT: This would be strip zoning for a portion of the railroad right-of-way 400 feet in width and 70 feet in depth. The property could be used for some use other than the proposed signs and the 25-foot setback from Airport Boulevard could create a problem.

Mr. Donald J. Weigand (agent for Tribble Advertising Company) represented the applicant and presented the following information: These structures will be a little different at this location. There are many commercial buildings here at present and an industrial zone about a block away. Down the railroad tract we have new warehouses which will be opposite the location of the panels. These will be single panels and perpendicular to Airport Boulevard. There are no intersections involved and the panels will have a full clearance of 16 feet underneath. There is insufficient space for off-street parking for other uses and if it were divided into lots there would be the big warehouses already backing up to them.

C14-60-159 T. & N. O. Railroad--contd.

One reply to notice was received favoring the request and written comment was received from Mr. C. B. Smith favoring any change since Austin needs the additional payrolls and tax revenue.

The Commission discussed the fact that these signs would back up to warehouses in an industrial area, but felt that this would permit a long row of signs on a highly traveled traffic artery which would be a detriment to the public safety and welfare of the community. It was therefore unanimously

VOTED: To recommend that the request of the T. & N. O. Railroad for a zoning plan change from "A" Residence to "C" Commercial for property located at 6901-6933 Airport Boulevard be DENIED.

C14-60-160 O. M. Rhea Estate: B to O
2403 Red River Street

DIRECTOR'S REPORT: The surrounding area is zoned "B" Residence and is developed with single-family and duplexes with a few apartments in the area. The Department feels that the application itself is a spot zone in an area which is used for residential purposes and which will be needed in the future for University housing needs.

Messrs. Boyd Rhea (Executor for the Estate), A. A. Rhea and Glenn Cater (Lockhart-Hutchens Agency, Realtors) appeared in support of this request for reasons which may be summarized as follows: No one has been interested in this property as residential but there have been two doctors who have considered a duplex office. This property needs to be sold so the heirs can divide the proceeds. The present zoning does not permit proper development as multiple housing because it is too small but the "O" Office would permit professional offices for doctors or dentists. There would be ample room for off-street parking. At the present time they could build an office if they built a residence in conjunction, but the doctors do not want to live here, they only want an office. If they could have a building with ample parking in the back they would want it, the only difference would be that they could have an office without a residence in an "O" Office District. The property would be suitable for this type of use.

Two replies to notice were received favoring the request.

The Commission concluded that the lot is too small for the use proposed and for ample off-street parking and is not suitable for this purpose, also this would be spot zoning. It was therefore unanimously

VOTED: To recommend that the request of O. M. Rhea Estate for a change in the zoning plan from "B" Residence to "O" Office for property located at 2403 Red River Street be DENIED.

C14-60-161 John R. Kuchar: B & 1 to B & 2
1710-1806 West Avenue

DIRECTOR'S REPORT: This is for a fairly good-sized tract of land where there is presently a fraternity house. It is zoned "B" except for the south 60 feet which is zoned "A" Residence. They are asking for the entire tract to be zoned "B" Residence and Second Height and Area to permit them an increase in the number of family units. Under the present zoning they could have a total of 30 units while Second Height and Area permits 40 regular units or 80 efficiency units or apartment type hotels. We recommend against the change in Height and Area but do recommend that the south 60 feet of the property be zoned "B" to permit utilization of the entire tract for apartments. This adjoins an "A" District which is single-family development. Second Height and Area is confined to 19th Street and the "O" District on the east and this would be somewhat of an encroachment into the residential area. The staff noted that the change to "B" for the south 60 feet was not shown in the notice of hearing as being presently zoned "A" Residence.

Mr. Bradley Bourland (agent) represented the applicant and presented statements which may be summarized as follows:

1. We plan to build an apartment house structure and we feel that this is the best utilization of this property. We do not propose to build efficiency units. We are concerned with what would be almost exclusively two-bedroom units, with living room and kitchen, some patio area, and some additional entertainment area including a swimming pool, but not to confine it to efficiency units. The swimming pool would not be hazardous to the children since it would be enclosed. We would have a maximum of 40 units and will have $1\frac{1}{2}$ parking spaces per unit. The first part of this building will be set back about 50 feet from the street. It will be built as fireproof as it can be built with concrete and steel construction. We would demolish the present fraternity house but would keep the present trees.
2. The property next to this is Second Height and Area and there is a sorority house adjoining on the south. Across the street and south of the sorority house are single-family units, some of which in the past have had rooms rented to students. There is "O" zoning on 19th Street which was recently recommended by the Commission.
3. It is our definite thinking that we would have two exits on West Avenue. We have no desire to detract from the neighborhood but we propose to fit into the neighborhood. We feel that we would not decrease the value, detract from, nor lower the value of the neighborhood.

Five nearby owners appeared in opposition and written objections were filed by four owners. Reasons given were:

C14-60-161 John R. Kuchar--contd.

1. Some of the buildings in this area have been converted into uses which would be considered "O" Office and there is a mixture of uses in this area. Without someone being penalized, all of the property in this block including the property down this side to 17th Street should be zoned "B" Residence. The neighborhood is changing in use. One owner located here because it was downtown and close to the University and had a potential, but there is a drainage problem here with the water stopping in the back yard of this property. When you put more business and more parking there then you have a big flow of water going onto the adjoining property and it should be protected if you make the change.
2. Most of the residents on West Avenue with the exception of the fraternity and sorority houses have single-family uses. They have lived here many years and would like to keep the place as it is. If the swimming pool is built here it would be a hazard because there are so many children in the neighborhood. The present zoning allowing 30 units should be enough. There is only an entrance from West Avenue and no back entrance and no possibility of one there. This has been a fine residential area and we want it to remain that way.
3. We feel that the classification the property presently enjoys takes care of any requirements that may be necessary; that the enlargement of same will only add to the noise and confusion attendant on such matters, and render the area rather undesirable as a place for living for those of us who have homes in the immediate area and with resulting depreciation of values of such homes. We submit that there is questionable need for endless apartment housing in the area, or in Austin for that matter, and feel that the present zoning is quite adequate for anything that should be constructed on the subject property.
4. West Avenue is almost a dead-end street except for 19th Street. There is no thoroughfare east or west where you can get from one part of town to another. With a large number of apartment units there, access to it would be difficult from the north or west part of town. 19th Street is now a bottleneck of traffic. Apartment buildings will increase this traffic. 19th Street is the only thoroughfare from Lamar to Airport Boulevard and is the main thoroughfare east to both the University and the Capitol, and as the state grows the traffic will become heavier. If it were widened it would be much better in providing more access to this property but as it is now it is too congested.
5. It is important to look to the future on traffic problems in Austin, because the hills are an obstacle to through streets. North-south streets crossing 19th Street make a jog and thus create a traffic problem, which adds to the congestion on this street. The City of Austin does not have the funds to correct mistakes made in crowding traffic onto an already crowded street. Crowding more traffic onto 19th Street

C14-60-161 John R. Kuchar--contd.

makes driving hazardous and works against our own safe-driving program. The traffic problems on 19th Street and West Avenue concern the future of the City of Austin. It is important to furnish free access to the Capitol, to the University of Texas, and to the airport. This is the time to adopt far-sighted plans for the city of Austin.

Mr. Bourland reported to the Commission that they now plan to construct 50 units instead of the 40 units reported to the Committee.

In response to a request by the Commission, the Director explained that when the "O" Office zone was first established (after a study was made at the request of the Commission) this half block was not included but was recommended that it be "B" Residence. He noted that this property is very near a continuing single-family and two-family residential area. Some members of the Commission felt that the change should be granted since the applicants have agreed to limit the number of units to 50. Mr. Barrow said he would be opposed to the number of units permitted under First Height and Area in this area that is not an area that lends itself to intensive housing development and to the rear of which is a fairly good residential area. He noted that this is four or five blocks from the University and he would oppose the proposed change whether or not it is for student housing. He felt that one of the worst things going up in Austin is the large apartment development in the residential areas and the parking congestion created. Mr. Lewis felt that the 50 units might not be objectionable but under the Second Height and Area 80 efficiency units or an apartment hotel would be permitted and the property could be so developed regardless of the present plans. All members agreed that the south 60 feet should be changed to "B" Residence to conform to the zoning for the remaining part of the tract. It was then

VOTED: To recommend that the request of John R. Kuchar for a change of zoning from "B" Residence and First Height and Area to "B" Residence and Second Height and Area for property located at 1710-1806 West Avenue be GRANTED, and that a "B" Residence and Second Height and Area designation also be established for the south 60 feet of the tract.

AYE: Messrs. Baldrige, Brunson, Bryant, Kinser and Lewis
NAY: Messrs. Barrow and Chriss
ABSENT: Messrs. Barkley and Spillmann

C14-60-162 Ruben H. Johnson et al: B to O

Tract 1: 2704 (2624) Rio Grande and 2705 Salado

Tract 2: 2706-2708 (2710) Rio Grande

Tract 3: 2707 (2701) Salado Street

DIRECTOR'S REPORT: There are three tracts involved which are under separate ownership and will be purchased by the applicant. We feel that this would be spot zoning and recommend against the change. Salado Street is only 50 feet in width with 30 feet of paving as a residential street. We feel that this area should be retained for apartments in the University area. We recognize the possible establishment somewhere in this area of office uses but we feel they should be nearer Guadalupe Street. We are completing a study of the area from 26th to 29th Street and from Rio Grande to Lamar. This study covers zoning, housing type and quality, building coverage, and off-street parking. This will be followed by a study of the entire University area to show future housing capacity, commercial development, and off-street parking.

Mr. Dan Felts (attorney) represented the applicants and was joined by Mr. Eduard Micek and a sister of Mrs. Nettalie R. Bateman (sellers of part of the property), Mr. R. H. Johnson (Purchaser), and by Mr. Stanley Moss. Two replies to notice were received favoring the request. Information presented in support of the request may be summarized as follows:

1. (Mr. Felts) I have talked with several people in City Hall and I get varied opinions as to when the area study will be completed. One opinion was that it may be a year before the plan is out. I understand that this study has been in progress one or two years. (Mr. Stevens said that was incorrect.)
2. The use of property to the north and on 19th Street has changed. The old Wooten home was used as a rooming house at one time. There are other rooming houses, apartment houses, filling stations and grocery stores, and at 25th and Rio Grande you find a doctor's office. We feel that the best use of this property is for a doctor's office. It is directly across the street from Seton Hospital. I cannot think of a better use than a doctor's office. With the hospital and nursing home being situated close to this property, we feel that the proposal would be tremendously beneficial to the hospital, the doctors and the public generally.
3. We propose two separate houses, with one on the tract north of the alley and one on the tract south of the alley. The two structures would have from 8 to 10 doctors. The parking that would be required with this much square footage (which is approximately 10,000 square feet) would be about 30 cars and the projection in our plans is for 58 cars and this was drawn in accordance with the recommendations by the City. There are other areas where you could have additional parking. The Ordinance required a fence or a planting strip and a fence would be more desirable as a buffer zone between this and residential property. We feel this

C14-60-162 Ruben H. Johnson et al--contd.

would definitely enhance the value of other property in the neighborhood. It certainly will not depreciate it. When Mr. Johnson purchased the property south of the alley he tore down an old house which was about to fall down and which was an eyesore. The other house on the Bateman property is an old house. We at one time considered one building and were thinking of a multi-story building but we considered the height which would be out of harmony with the neighborhood and the use by doctors and we have put it into two single-story buildings.

4. Each one of the hospitals in the city has a group of doctors which cater to that hospital. We have been in touch with a group of doctors who primarily do most of their business at Seton Hospital. They would like to center their offices close to Seton, not only to be next to the facilities of the hospital alone but close to other doctors located in that area because doctors will refer business to other doctors. There are some doctors and a radiological firm in the immediate area. The doctors who would like to go into this project would like to be close to these other doctors because of their referral of business.
5. Much of this area is presently zoned "B" Residence and permits student housing, and along Rio Grande Street there are numerous housing facilities. We cannot see why this small tract of ground would throw the housing situation of the University into a critical situation.
6. It ought to be taken into consideration that this is a real asset for the doctors and it would be very good for the neighborhood. It would be convenient and would cause no harm to the neighborhood. Since it is adjacent to the hospital and it is known how badly the doctors want space, all the factors have been taken into consideration and the proposed project is definitely going to contribute here rather than detract from it. It would solve the traffic problem and would stabilize the property value. This is the type of development we need to replace the old buildings which are in bad condition.

Four nearby owners appeared in opposition and written objections were filed by two owners. Reasons given were:

1. This has been one of the home neighborhoods of the city for many years. We have never had any portentous buildings but have had homes where we have lived and raised our families and this is still a home area. I know of no quicker way to destroy it than to grant this request. This will discourage everyone else from coming in and building residences. It would never again be a residence area. The proposed zoning would change the character of the whole surrounding residential neighborhood. Those of us who own homes in the area did not purchase our property with the idea of turning a quick profit. We appreciate that real estate investors by buying residence property can reap a quick substantial profit by getting the property zoned "O" Office for

C14-60-162 Ruben H. Johnson et al--contd.

commercial use. But they should not be allowed to do this to the detriment of the whole neighborhood. A zoning change for these three tracts will only encourage and increase real estate speculation in this basically residential section. The area should be kept residential, knowing what the future demands for housing will be in the area.

2. Mr. Johnson bought the property knowing what the situation was and his purpose is to make some money and destroy the home section for the remainder of the property home owners. Salado Street is altogether a home area. The home owners would have to hold their property for 5 or 10 years until someone else wanted to buy property for office buildings.
3. Parking and traffic are now prime problems in the immediate area surrounding the three tracts under consideration. If these three tracts are zoned "O" Office, the parking and traffic problems will increase to the point that residential use of other property in the area will be made difficult.
4. The proposed zoning change is unwise and is not in the best interest of the City of Austin as the home of the University of Texas. From the projections as to the increasing number of students which we may expect to attend the University in the next decade, it is evident that sufficient housing for these students in the University neighborhood is going to be more and more difficult to provide.

In the area from 19th to 28th Street between Guadalupe and Lamar Boulevard, it is urged that present residence zoning designations be maintained for the purpose of future availabilities in the University neighborhood of the private housing which will be necessary. Private housing within walking distance of the University campus is now at a premium. With parking space now virtually exhausted in the area the situation will become more critical every year as the enrollment increases.

5. The adjoining owner on the north was interested in the possibility of a parking area next to his yard.

Mr. Felts reviewed some of his statements to the Zoning Committee and urged some action by the Commission since there is no assurance as to when the study by the Department will be completed.

In reviewing the action of the Zoning Committee, Mr. Barrow stated that he was under the impression that the Planning Department was making a study of this area at the request of the Planning Commission in connection with another case. The Director explained that the study on the particular area where this is located is nearing completion and he hoped to have it finished before the holidays. He noted that, in recognition of the legal basis of

C14-60-162 Ruben H. Johnson et al--contd.

zoning, this is a spot zone and said he felt the highest and best use for this immediate area is University housing and there are utilities available for such uses. He felt that the housing should be taken care of first -- that he did not feel that all of the area should be reserved for housing but that perhaps some of the commercial and office areas will be expanded, but until the study is completed it is difficult to determine where these uses should go. The question of offices being located in the area is one problem because of the location of Seton Hospital. He called attention to several non-conforming uses in the area and said the staff was considering an office area developing along 30th Street east of Guadalupe Street and one just west of Guadalupe Street, but there are some angle streets south of 29th Street which present a question as to their use for office development.

Mr. Lewis thought the area has changed sufficiently to warrant this type of use and said he could not see much difference in this proposed development and that on Red River Street where St. David's Hospital is located. The Director pointed out that these offices have been along 32nd Street and that the Medical Arts Center was vacant land and could possibly have gone into University housing. He called attention to the fact that the City is faced with the possibility of housing 10,000 students around the University and that they should be located near the University. He noted that Rio Grande Street is a one-way street going north which seems to be a bad situation for a doctor's office and that there are perhaps other locations in the general neighborhood that would provide one-way streets.

Mr. Brunson stated that he felt consideration should be given the study but also felt that this area does need a service in the form of offices, especially for doctors, and that they would be integrated with the student housing program. He believed that this one-way street would provide adequate access and that the proposed structure is of a high type and desirable for the area. Mr. Kinser said in his opinion the character of the neighborhood has already changed and he felt that when a person is ready, able and willing to build something in the City of Austin which is an asset to the health, welfare and convenience of the people it should be permitted. He noted that this area is near Seton Hospital and he could see no place in the whole area between 24th and 29th Streets that is more suitable for a doctors' offices than this one location.

After considerable discussion of the factors presented, a majority of the Commission concluded that no change should be made in this area until the Department study is completed. A motion to grant the request failed to carry and it was therefore

VOTED: To recommend that the request of Ruben H. Johnson et al for a zoning plan change from "B" Residence to "O" Office for the property described below be DENIED:

C14-60-162 Ruben H. Johnson et al--contd.

Tract 1: 2704 (2624) Rio Grande Street and 2705 Salado Street
 Tract 2: 2706-2708 (2710) Rio Grande Street
 Tract 3: 2707 (2701) Salado Street

AYE: Messrs. Barrow, Bryant, Chriss and Lewis
 NAY: Messrs. Brunson and Kinser
 ABSENT: Messrs. Barkley and Spillmann
 DISQUALIFIED: Mr. Baldrige (architect)

C14-60-163 J. E. Sullivan: C to C-1
Manor Rd. and Coletto St.

DIRECTOR'S REPORT: This is for the purpose of selling beer and wine for on-premise consumption in connection with an existing cafe. There is an existing cafe across the street which serves beer, and Manor Road is commercial. We feel that this request does conform to the policy of the Commission but recommend consideration of the fact that the cafe has outside service on a covered patio and we feel that this could be objectionable to the adjoining residences, especially with the serving of beer there.

Mr. Sullivan appeared at the hearing and stated the following in support of his request: I built and improved this property but have been unable to rent it. I have had a number of prospects for "C-1" for drive-in or a fruit establishment, but people passed it up because they could not sell beer. As far as the outside patio and disturbances are concerned, I live immediately behind this property and I would not allow that. My building is 30 feet from Manor Road and 27 feet from Coletto Street.

One reply to notice was received favoring the request.

The Commission concluded that this request conforms to the policy of the Commission in that the property is located in a well developed commercial area. It was therefore unanimously

VOTED: To recommend that the request of J. E. Sullivan for a change in the zoning plan from "C" Commercial to "C-1" Commercial for property at the southeast corner of Manor Road and Coletto Street be GRANTED.

DEFERRED ZONING CASE

C14-60-144 H. E. Butt Grocery Co.: A to B
2413 Euclid Ave.

It was reported by the staff that the applicants have requested further postponement of this request until their plans are further completed. The Commission then unanimously

VOTED: To continue DEFERRAL of this request until the next meeting of the Zoning Committee for another hearing.

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DEFERRED SPECIAL PERMIT

CP14-60-11 Terminix Company: Office Building for Terminix Company
1206 Parkway

The staff reported that the site plan has been revised to meet the recommendations of the Traffic Department and the site is being graded down more to the level of the street. The Commission therefore unanimously

VOTED: To APPROVE the site plan as revised and to authorize the Chairman to sign the necessary resolution issuing the Special Permit.

R146 SUBDIVISION COMMITTEE

The Committee chairman reported that no meeting of the Subdivision Committee had been held on December 5, 1960, as previously scheduled since no preliminary plans had been presented for consideration.

PRELIMINARY AND FINAL PLAT

C8-57-20 Southern Oaks
Manchaca and Jones Roads

Mr. Fowler reported to the Commission that the subdivider is requesting that a portion of the original preliminary plan and a final plat of that area be accepted for filing. He stated that the Commission would have to accept the plat for filing but this would not indicate approval of the plat when it is filed in the proper form. The staff reported that a print was previously presented to the Commission but was held until the Commission voted to accept the plat for filing. The Commission agreed to accept the plat for filing but to inform the subdivider that the plat will be disapproved unless there is some satisfactory arrangement made regarding the street and easement matter which has been before the Commission previously. It was then

VOTED: To ACCEPT the plat of SOUTHERN OAKS for filing.

SUBDIVISION PLATS - CONSIDERED

C8-60-32 Huntland Heights
St. Johns and Interregional Hwy.

This plat was presented for layout approval only because fiscal arrangements have not been completed and all necessary departmental reports have not been received. It was therefore

VOTED: To DISAPPROVE the plat of HUNTLAND HEIGHTS pending completion of fiscal arrangements and receipt of necessary departmental reports.

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The following plats were reported by the staff as having satisfied all the standards of the Subdivision Ordinance and were recommended for final approval. The Commission therefore

VOTED: To APPROVE the following plats:

C8-59-51 Manor Hills, Sec. 10-A
Manor Road
C8-60-15 Highland Hills, Sec. 5, Phase 4
Highland Hills Parkway
C8-60-38 Royal Oak Estates, Sec. 1
Coventry Lane and Manor Rd.

SHORT FORM PLATS - FILED

The staff reported that reports have not been received from several departments and that no action on the following short form plats is recommended at this meeting. The Commission therefore

VOTED: To ACCEPT the following short form plats for filing:

C8s-60-129 Pt. Government Outlot 28, Div. B
Harvey St.
C8s-60-133 Travis Hills
Travis Cook Rd. and Travis Hills
The staff reported that this is a subdivision where tracts were subdivided and sold by metes and bounds and the owner had given individual easements of access. The owner had retained ownership and now intends to dedicate the streets.

C8s-60-131 Avalon D
E. 32nd and East Ave.

It was reported by the staff that this is a tract of land owned by Mrs. S. E. Damon and there is a problem concerning zoning. Mrs. Damon had at one time permitted the Brown Schools to operate offices here and in 1958 the Board of Adjustment had permitted expansion of the use with certain restrictions as to parking for personnel and the public. The proposed subdivision would include a part of the required parking area in the property retained for the Brown Schools but a part of it would be in another lot, with easement of access on this lot for joint use so that cars could park in the rear. The staff further reported that this matter will be brought up for review by the Board of Adjustment at the next meeting. The Commission then

VOTED: To REFUSE to accept this plat for filing.

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SHORT FORM PLATS - CONSIDERED

The following plats were presented under Short Form Procedures and were reported by the staff to comply with all provisions of Section 4 of the Subdivision Ordinance. The Commission therefore

VOTED: To APPROVE the following plats:

C8s-60-103 Walter L. McBride Subdivision (Revised)

Ledesma Rd. and Garland Ave.

The staff reported that since this subdivision was previously considered, Lot 14 has been acquired and made a part of the subdivision, Lot 14 being narrow at the rear but sufficiently wide at the building line, to give access to a dedicated street for the interior lots.

C8s-60-117 William M. Collins Sub.

Farm Highway 969

C8s-60-121 Chestnut Avenue Addition

Chestnut Avenue and E. 19th St.

C8s-60-127 Oak Springs Subdivision

Oak Springs Drive

The following plats were presented under Short Form Procedures and action was taken as shown:

C8s-60-113 Chase Addition, Sec. 2

Hargrave Street

It was reported by the staff that this is a part of an estate which was left out of the original Chase Addition east of the creek, that the plat appears to have four lots but Lots 1A and 2A are dedicated for a drainage easement and have no frontage on a street. It was further reported that the Board of Adjustment had granted a variance on Lot 2 but Lots 1A and 2A were created to provide larger areas for Lots 1 and 2, although they are dedicated for the drainage easement. The staff also reported that the 1960 City taxes have not been paid on Lot 1 but they are not due before January 31, 1961 (Mr. Leonard, engineer, stated that Mr. Mobley owns this lot and will pay the taxes before that date). The staff further reported that there is a clear title to Lots 1 and 2 but Lots 1A and 2A are in the creek and no one claims them. Mr. Kinser stated that a lawsuit was filed last week by Earl Chase and that this is a tract of land of about 7500 square feet where there is a question about the title. He felt the Commission should have more information as to how the subdivider is to give title to the City before the subdivision is approved. Mr. Leonard said the State that owns the entire tract subdivided the property in Chase Addition but did not include this property and Mr. Chase is getting from the estate all the remaining property and the people across the creek only claim to their fences. He further explained that the subdivider told the City he would give a 50-foot drainage channel and straighten it out and the City promised to construct the channel but cannot complete the work until the weather is suitable.

C8s-60-113 Chase Addition, Sec. 2--contd.

Mr. Fowler informed the Commission it cannot approve the plat where the subdivider does not own all of the property and where there is a title question. The Commission therefore

VOTED: To REJECT the plat of CHASE ADDITION, SEC. 2 since it appears that there is a discrepancy in ownership or a vague opinion as to who owns a part of the subdivision.

Mr. Fowler then reported to the Commission that he had talked with Mr. Leonard and suggested he go ahead and complete the title transactions so that Mr. Chase has title to all of the property and that he alter the designation of Lots 1 and 2 to make two lots and show the drainage easement.

C8s-60-118 Mary Alice Comeskey
W. 34th St. and West Ave.

The staff reported that fiscal arrangements have not been completed and that additional easements are required. Mr. M. O. Metcalfe (engineer) said he will give easements in the locations desired by the Water Department. The Commission then

VOTED: To DISAPPROVE the plat of MARY ALICE COMESKEY pending completion of fiscal arrangements and showing of necessary easements.

C8s-60-125 River Oaks, Sec. 1, Resub. Lots 1 & 3
Lupine La. and Sunnyvale

It was reported by the staff that 1960 taxes have not been paid but they are not due before January 31, 1961. The Commission therefore

VOTED: To DISAPPROVE the plat of RIVER OAKS, SEC. 1, RESUB. LOTS 1 & 3, pending receipt of a tax certificate.

C8s-60-126 Avon Heights, Sec. 4
Bluebonnet La. and Rabb Glenn

It was reported by the staff that the owners recently erected a new dwelling on the home site which was not a part of the master plan of this area and were granted a variance from the Board of Adjustment to permit the existing building to remain until the new one was completed. This plat is to create two lots adjoining the home site and the owners propose to relocate the old residence on one of the new lots but do not wish to include the home site in the subdivision. A variance is required from the filing requirements of the Ordinance as to what constitutes a subdivision.

Mr. Metcalfe stated that they are not ready at this time to establish the north and west lines, nor the street on the west, but the tract will be subdivided in accordance with the master plan which was previously approved when it is subdivided.

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C8s-60-126 Avon Heights, Sec. 4--contd.

The Commission therefore

VOTED: To APPROVE the plat of AVON HEIGHTS, SEC. 4, and to grant a variance from the Subdivision Ordinance on filing requirements.

C8s-60-128 Robert L. Pickle Subdivision
Deen Ave. E. of N. Lamar Blvd.

The staff reported that three variances are necessary for approval of this subdivision since Deen Avenue is only 40 feet in width and with the subdivider dedicating his part, the street will not be the required 50 feet, and since some of the lots are not 60 feet in width and do not have the required 9000 square-foot area for septic tank installation, but the Health Department has approved these lots.

Mr. Leonard stated that Mr. Hargis of the Health Department had said sewer will be available within a year or one and one-half years and for this reason he approved the lots. The Commission therefore

VOTED: To APPROVE the plat of ROBERT L. PICKLE SUBDIVISION and to grant variances from the Subdivision Ordinance on street width, lot width and lot area requirements.

C8s-60-130 Rundberg Lane Addition
Rundberg Lane

It was reported by the staff that Lot 19 was only 35 feet in width and 137 feet in depth, while Lot 18 was considerably larger, and this is in an area where sewer is not available, both lots being inadequate as to width and area for septic tank installation. The owners propose to change the lots to provide an area of 7800 square feet for one lot and 7200 square feet for the other which would provide adequate lot sizes for lots where sewer is available but not for septic tanks; however, the Health Department has approved the arrangement. The Commission considered this to be an improvement over existing conditions and it was therefore

VOTED: To APPROVE the plat of RUNDBERG LANE ADDITION and to grant a variance from the Subdivision Ordinance on lot area and lot width requirements.

C8s-60-132 West Oaks Resub.
U. S. 290 and Bowling Dr.

The staff reported that this is a subdivision of a tract of land about $1\frac{1}{2}$ miles from Oak Hill on the Fredericksburg Highway and that Lot A presented the problem since the owner has requested water service. This property was and is owned by the Hudsons and in the past years they have sold lots and put in streets with right of access. Some of the new owners have not signed

CBs-60-132 West Oaks Resub.--contd.

the plat which necessitates a variance. It was recommended by the staff that the plat be approved which would include the formal dedication of the streets. Mr. Hudson said the streets were put in about three years ago.

Mr. Fowler said that in checking on this matter, the apparent situation is that the owner sold off tracts of land, giving individual easements of access but retaining ownership, and he now intends to dedicate the streets. He feels that this could be done with approval of this plat. The Commission then

VOTED: To APPROVE the plat of WEST OAKS RESUB. and to grant a variance from the Subdivision Ordinance on signature requirements.

CBs-60-134 Towne Lake Addition
Salina and Riverview Sts.

Mr. W. T. Williams, Jr., City Manager, presented to the Commission a proposed plat of the subdivision, and explained that this particular tract of land with the type of development which has been done on it had given the City concern for some time; that a large number of houses had been built on the property before it was subdivided and before the effective date of the Subdivision Ordinance; that the houses were built much closer together than the present Ordinance permits, and that many of them were not provided with direct water connections or sewer; neither was the street paved as now required. He explained that the exact location of the houses with reference to the lot lines had been determined for this plat; that the lot lines had been set after providing for moving several of the houses to enlarge the lot areas. He stated further that although this layout still left 14 lots with insufficient width and/or space, in many cases the deficiency was nominal.

Inasmuch as it was shown that the proposed subdivision would materially improve the tract in question, result in individual water and sewer connections and the paving of the street through the tract, the Commission

VOTED: To grant the variances in lot widths and areas and to APPROVE the plat of TOWNE LAKE ADDITION.

ADMINISTRATIVE APPROVAL

The staff reported that 2 plats had received administrative approval under the Commission's rules. The Commission therefore

VOTED: To ACCEPT the staff report and to record in the minutes of this meeting the administrative approval of the following subdivisions:

- CBs-60-112 Ridgetop Gardens, Resub. Lots 3 and 4
E. 51st St. and E. 52nd St. E. of Cameron Rd.
CBs-60-120 C. E. Harkins Sub.
Clifford St. W. of S. 1st St.

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OTHER BUSINESS

C10-60-1(s) STREET VACATION
DeVerne St. W. of Rae Dell

The staff reported that Mr. Fred Hooper and Mrs. Noyes D. Smith, owners of abutting property, have requested that the portion of DeVerne Street lying west of Rae Dell Street be vacated since this portion, even though dedicated to the public, has never been opened. It was further reported that Mrs. Smith has submitted a letter stating that if this request is granted, she agrees to provide a street from either Rae Dell Street or Rabb Road into her adjoining property for utility installation, if such street is found to be necessary when or if this property is subdivided.

The Director reported that this is in conformity with the plan prepared by the staff in which the owner has indicated interest and which would provide an access street into Mrs. Smith's property for this block. He said the water service will be cut off unless another street is provided when the Smith property is developed. The Commission therefore

VOTED: To recommend that the portion of DeVerne Street west of Rae Dell Street be VACATED, with the understanding that Mrs. Smith has filed a letter agreeing to provide access into her property by another street if and when that property is subdivided.

C10-60-1(t) STREET VACATION
Part Old Manor Road and Nolen Street

The Director reported that this is a request by the City for the vacation of the portions of Old Manor Road and Nolen Street which have been absorbed in the development of the Airport and terminal building. He recommended that the request be granted since Manor Road has been re-routed around the Airport and these streets are no longer needed. The Commission therefore

VOTED: To recommend that the portions of Old Manor Road and Nolen Street within the Municipal Airport be vacated as requested.

R808 DEVELOPMENT PLAN
W. of S. Congress, S. of Havana St.

Mr. Jeryl Hart (Marvin Turner Engineers) appeared with three clients concerning an old existing subdivision, Brackenridge Heights. Mr. Hart explained that his clients would like to purchase this property from the Baptist Foundation and replat it as the lots as they are now are not the most desirable building sites and some of them cannot be used as building sites. He further explained that he has already checked the plan with the Water Department and the Public Works Department and has gotten from them a favorable report for the replatting. Mr. Hart further explained the advantages both to the subdivider and the City of Austin as the replatting would provide for the right-of-way of Barton Skyway through this tract,

R808 DEVELOPMENT PLAN--contd.

would provide access to the elementary school to the west, would make the streets adequate in width, and would make all but one lot standard under the Subdivision Ordinance.

Mr. Hart then explained that this early presentation of the plan to the Commission was desirable from the standpoint of time to his clients as short forms for certain parts of the property could be submitted while a preliminary plan for the balance of the tract is being completed, and for that reason he wanted some tentative indication from the Commission as to whether or not they felt that this plan would be workable.

The Director said the basic problem as seen by the Department is having a cul-de-sac with only access to South Congress Avenue and that the staff had proposed that the existing north-south street be extended from the cul-de-sac, but they pointed out that there is a drainageway which would necessitate a crossing and a street which would cost about \$30,000. Mr. Osborne also commented on the 5-foot walkway for the use of children attending the elementary school. He said that in view of some of these problems the Department would recommend approval although it is not the plan we would like to see.

The Commission agreed that generally the plan appeared that the subdividers are proceeding in an orderly manner with the plan but the Commission would like to see the preliminary plan filed before any Commission action is taken.

C2-53-4 ZONING ORDINANCE: Interim Revisions

The Director presented possible zones which might be created to permit the sale of beer, wine and liquor in various ways. He suggested an "LR-1" zone to permit beer for off-premise consumption and possibly beer with food, and a "GR-1" zone in which a liquor package store might be operated, confining the more objectionable uses in less restrictive zones and permitting the less objectionable uses in the zones permitting grocery stores and restaurants. Mr. Brunson stated that a number of people are vitally interested in this matter and he felt there should be a public hearing. Mr. Lewis considered that the operation of taverns should be controlled. Mr. Osborne said he would like to have a group who might be interested in these regulations, including ministers, attorneys, and members of the Planning Commission, as an advisory group to the Commission.

R141 PLANNING COMMISSION: Policies

As requested by the Commission, Mr. Fowler gave a preliminary opinion as to whether or not the Commission could consider deed restrictions on land as a factor in a zoning change application. He stated that he had not been able to find any Texas cases precisely in point but that the better reasoning in out-of-state cases seems to be to the effect that restrictive covenants should not be considered by a zoning body as a factor in zoning change cases.

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R141 PLANNING COMMISSION--contd.

The reasoning in these cases begins with the point that the planning or zoning commission has only such authority as is delegated to it by statute and then proceeds to point out that such a board or commission does not have the statutory authority to judicially construe any restrictive covenant as being valid or invalid. In order to consider a restrictive covenant in a zoning change application here, the commission or board must necessarily judicially determine that the restrictive covenant involved is valid and that it is in full force and effect. The zoning board or commission is not the proper forum for such a judicial determination and such a question may be decided only in the district court.

It was his expressed opinion that the commission could not legally grant or deny a zoning change application solely because of the existence or non-existence of deed restrictions.

It was also his expressed opinion that in any neighborhood where deed restrictions exist there are always other valid zoning considerations upon which the commission can determine the proper zoning for the neighborhood.

Mr. Barrow felt that if there are deed restrictions they tend to protect the development of a neighborhood and are a matter of public welfare. In response to a question by Mr. Fowler as to the matter of changing character in a neighborhood, Mr. Lewis said he felt the applicant should take the matter to a court and show that there has been a change and have the restrictions removed.

ADJOURNMENT

The meeting was adjourned at 11:40 p.m.



Hoyle M. Osborne
Executive Secretary

APPROVED:



Chairman